REMARKS

Claims 1, 11, and 21 are amended herein. Thus, claims 1-30 remain pending in the present application. In view of the above amendments and the following remarks, reconsideration of the outstanding office action is respectfully requested.

First and foremost, Applicants would like to thank Examiner Felton for his courtesy in participating in a personal interview with the undersigned on July 20, 2005 to discuss the above-identified application. In the interview, the status of the present application was discussed, including the present status of each of the rejections. In particular, although there was no statement of rejection in the Final Office Action, the Examiner provided in the interview that the rejections of claims 1-10 under 35 U.S.C. § 101, claims 5, 15, and 25 under 35 U.S.C. § 112, and claims 1-30 under 35 U.S.C. § 103 in view of U.S. Patent No. 5,794,207 to Walker et al. (Walker), U.S. Patent No. 6,529,885 to Johnson (Johnson), and U.S. Patent No. 5,608,620 to Lundgren (Lundgren) were maintained. Applicants accordingly presume that the remaining rejections in the prior Office Action have been withdrawn. In addition, the merits of the present application in view of Walker was discussed, and the Examiner indicated that Applicants' arguments in view of Walker would be reconsidered upon receipt of this Amendment After Final.

Referring to the rejection of claims 1-10 under 35 U.S.C. § 101, Applicants respectfully submit that, as stated in their prior response of September 24, 2004, the inclusion of a "seller" within the body of the claims is sufficient to satisfy the requirements of 35 U.S.C. § 101. If the Office disagrees with the Applicants contention and maintains the rejection of claims 1-10 under 35 U.S.C. § 101 in a future Office Action, it is respectfully requested that the Office provide Applicants with a detailed reasoning so that Applicants may further respond.

Referring to the rejection of claims 5, 15, and 25 under 35 U.S.C. § 112, second paragraph, the Applicants further renew their contention that, in claims 5, 15, and 25, the word "substantially" has within its meaning something being largely, but not wholly what is specified. Accordingly, Applicants respectfully traverse the Office's objection to the use of the word "substantially" in claims 5, 15, and 25. The term "substantially" is a descriptive

term commonly used in patent claims to avoid a strict numerical boundary." *Ecolab, Inc. v. Envirochem, Inc.*, 264 F.3d 1358 (Fed. Cir. 2001). The standard for assessing whether a patent claim is sufficiently definite to satisfy 35 U.S.C. § 112, second paragraph is whether one skilled in the art would understand the bounds of the claim when read in light of the specification. *Exxon v. U.S.*, 265 F.3d 1371 (Fed. Cir. 2001). The Office's attention is respectfully directed to page 10, lines 3-18 in the above-identified application which discuss the announced and true probabilities and in particular states, "the contingent payment function shown in Eqn. 1 is set to be maximized if and only if the announced probability equals the true probability, *subject to the normalization constraints"* (emphasis added).

Accordingly, the Office is respectfully requested to reconsider and withdraw the rejection under 35 U.S.C. § 112, second paragraph. If the Office disagrees with the Applicants contention and maintains the rejection of claims 5, 15, and 25 under 35 U.S.C. § 112 in a future Office Action, it is respectfully requested that the Office provide Applicants with a detailed reasoning so that Applicants may further respond.

In addition, the Office has maintained the rejection of claims 1-30 under 35 U.S.C. § 103(a) in view of Walker, Johnson, and Lundgren. In particular, the Office disagrees with Applicants' prior assertion that Walker, Johnson and Ludgren, alone or in combination, do not disclose or suggest the limitations enunciated by the applicant in the 3rd paragraph at the bottom of page 8. "providing from the seller. . . the information includes at least one condition about a least one contingency. . . . " In this regard, the Office asserts that Walker suggests that a seller may provide modified conditions/counteroffers before binding the CPO (see Walker, col. 22, II. 40+), and that this falls within the definition of a contingency (although not explicitly enunciated by Walker). In addition, the Office stated that it provided reasoning of how Walker could be readily modified by Johnson's latest technology to provide a contingency condition, and that such reasoning could be an obvious extension of the teachings of Walker to include information provide by seller since Walker does use sellers input conditions within the negotiation process. Thus, the Office asserts that the combination of Walker, Johnson and Lundgren suggests the limitations enunciated by the Applicants and would render the claims obvious to a person of ordinary skill in the art.

However, none of Walker, Johnson, or Lundgren, alone or in combination, disclose or suggest, a system, method, or medium for selling information to a buyer including a

contingency and a condition about the contingency, "wherein each contingency provides an uncertainty regarding the information" and "wherein each condition provides a premise upon which fulfillment of at least one of the contingencies depends," as recited in claims 1, 11, and 21. In addition, none of Walker, Johnson, or Lundgren, alone or in combination, disclose or suggest a system, method, or medium for selling information to a buyer wherein a first payment is received "for the information for the seller upon satisfaction of the at least one condition for the contingency being satisfied after the information has been provided to the buyer," as is recited by claims 1, 11, and 21.

The Office's attention is respectfully directed to Col. 22, line 40, to Col. 23, line 18 of Walker which teaches the use of counteroffers. According to Walker, a seller may make a counteroffer in response to a CPO with modified and/or additional conditions. (Col. 22, lines 40-42). For example, "an airline...might view [a] CPO...for a first class ticket for five hundred dollars ... [and] ... be willing to sell for six hundred dollars, and thus want to develop and issue a counteroffer rather than electing to bind [the] CPO." (Col. 22, lines 42-46). Thus, the "counteroffer is similar to [a] CPO...except that the buyer is binding the seller [by acceptance of the counteroffer] instead of the seller binding the buyer [by accepting the CPO]." (Col. 22, lines 47-48). The issuance of a counteroffer as is taught by Walker does not include *provision or delivery of the information or information goods* "in response to the offer" as is recited in claims 1, 11, and 21. In addition, the counteroffer taught by Walker fails to teach "at least one condition about the at least one contingency, wherein each condition provides a premise upon which fulfillment of at least one of the contingencies depends" as is also recited in claims 1, 11, and 21.

As is set forth on page 5, lines 8-25 of the Specification, the present invention clearly teaches that "a contingency is an uncertainty about something occurring" and that "a condition is a premise upon which fulfillment of a contingency depends." For example, a contingency in an information good on Company X may be, "What is the price of Company X's stock going to be at years end?", the condition may be, "Company X's stock at years end will be $10," and the announced or predicted probability for the condition occurring may be, "We believe there is a fifty percent chance that Company X's stock at years end will be $10." Thus, the condition about the contingency is clearly distinct from a counteroffer as taught by Walker because, as taught by the present invention, the *seller provides the information to the*

buyer and then *also provides a condition about the contingency*, wherein the "condition provides a premise upon which fulfillment of a contingency depends." Like Walker, neither Johnson nor Lundgren disclose or suggest the invention as claimed.

In addition, the Office's attention is respectfully directed to Col. 22, lines 11-32 in Walker which describes an escrow account that "allows payment to be delayed until the seller completes delivery of the goods" and teaches that "only after the goods have been received by the buyer are funds transferred from [an] escrow account to [the] seller." (Col. 22, lines 9-19). This system describes the well-know C.O.D. type of payment wherein payment is made upon delivery of goods. Thus, payment may be linked to delivery of the goods according to Walker. However, Walker fails to teach that payment is delayed until the "at least one condition for the contingency" is satisfied "after the information has been provided to the buyer," as is recited by the claims. Like Walker, neither Johnson nor Lundgren disclose or suggest the invention as claimed.

To the contrary, and as set forth on page 3, line 27 to page 4, line 2 of the Specification, the present invention teaches to link at least a portion of the payment to a seller to the satisfaction of a condition about a contingency. As is recited in claims 1, 11, and 21, a first payment is not made to the seller until "the at least one condition for the contingency" is "satisfied after the information has been provided to the buyer." Thus, if the condition is not met, then the seller may receive a reduced payment or no payment at all, even though the buyer has already received the information. Accordingly, the incentives for the seller are more in line with the incentives for the buyer.

Accordingly, Applicants respectfully request that the rejection of claims 1-30 under 35 U.S.C. § 103(a) in view of Walker, Johnson, and Lundgren be reconsidered and withdrawn.

In view of all of the foregoing, Applicants submit that this case is in condition for allowance and such allowance is earnestly solicited.

Respectfully submitted,

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